

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 29, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JEREMIAH LINZ, individually and
on behalf of all others similarly
situated, CORY DAVIS, individually
and on behalf of all others similarly
situated, and AARON KAMINSKY,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

CORE VALUES ROADSIDE
SERVICE, LLC, and MARK
HYNDMAN,

Defendants.

No. 2:20-cv-00107-SMJ

**ORDER GRANTING MOTION TO
AMEND COMPLAINT AND
DENYING MOTION TO DISMISS
AS MOOT**

Before the Court, without oral argument, are Plaintiffs' Motion for Leave to Amend Complaint, ECF No 56, and Plaintiffs' Motion to Dismiss Defendants' Counterclaims, or in the Alternative, for Summary Judgment ("Motion to Dismiss or for Summary Judgment"), ECF No. 54. Defendants are not opposed to Plaintiffs' Motion for Leave to Amend Complaint. ECF No. 61. Defendants are opposed to Plaintiffs' Motion to Dismiss or for Summary Judgment. ECF No. 65. Having reviewed the motions and the file in this matter, the Court is fully informed and

ORDER GRANTING MOTION TO AMEND COMPLAINT AND DENYING
MOTION TO DISMISS AS MOOT – 1

1 grants leave to file an Amended Complaint. The Court also denies the Motion to
2 Dismiss or for Summary Judgment as moot.

3 Federal Rule of Civil Procedure 15 permits a party to amend a pleading with
4 the opposing party's written consent or leave of Court. Fed. R. Civ. P. 15(a)(2).
5 Defendants have consented to the proposed Amended Complaint. ECF No. 61. As
6 such, leave of Court is not required and amendment is appropriate. Because
7 Plaintiffs are granted leave to amend the Complaint, Defendants are required to
8 respond to the Amended Complaint. *See* Fed. R. Civ. P. 15(a)(3). Therefore,
9 Plaintiffs' Motion to Dismiss or for Summary Judgment, which seeks dismissal of
10 Defendants' counterclaims raised in the Amended Answer, ECF No. 48, is now
11 moot. The Motion to Dismiss or for Summary Judgment is denied with leave to
12 renew as to any counterclaims raised in Defendants' Second Amended Answer.

13 Accordingly, **IT IS HEREBY ORDERED:**

14 **1.** Plaintiffs' Motion for Leave to Amend Complaint, **ECF No 56**, is
15 **GRANTED.**

16 **2.** The Clerk's Office is **DIRECTED** to file the proposed First Amended
17 Class and Collective Action Complaint and Jury Demand, **ECF**
18 **No. 56-1**, as the First Amended Complaint.


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1 **3.** Plaintiffs' Motion to Dismiss or for Summary Judgment, **ECF No. 54**,
2 is **DENIED AS MOOT WITH LEAVE TO RENEW**.

3 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
4 provide copies to all counsel.

5 **DATED** this 29th day of July 2020.

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8 SALVADOR MENDOZA, JR.
 United States District Judge